



Douglas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	<div>DEPT OF ECOLOGY Received Date Stamp NOV 20 2012 CENTRAL REGION OFFICE</div>
Reviewed by:	_____
Date Reviewed:	_____

Applicant: Water Works Properties LLC

Application Number: DOUG 11-02

This record of decision was made by a majority of the board at an open public meeting of the Douglas County Water Conservancy Board held on 11/12/12

☐ **Approval:** The Douglas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on 11/12/12 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The Douglas County Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____ and submits this record of decision to the Department of Ecology for final review.

Signed:

Lee Hemmer
Lee Hemmer, Chair
Douglas County Water Conservancy Board

Date: 11-12-12

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Kathalene Humphrey, Vice Chairman
Douglas County Water Conservancy Board

Date: _____

Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Don Popoff
Don Popoff, Member
Douglas County Water Conservancy Board

Date: 11-12-12

Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Mailed to the Department of Ecology Central Regional Office of Ecology, and other interested parties on 11-19-12

If you have special accommodation needs or require this form in alternate format, please contact 360-407-6607 (Voice) or 711 (TTY) or 1-800-833-6388 (TTY).

Ecology is an equal opportunity employer



Douglas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON



Report of Examination

☒ Surface Water ☐ Ground Water

DATE APPLICATION RECEIVED 4/11/2011	WATER RIGHT DOCUMENT NUMBER S4-29943C	WATER RIGHT PRIORITY DATE 2/23/1989	BOARD-ASSIGNED CHANGE APPLICATION NUMBER Doug 11-02
--	--	--	--

NAME Water Works Properties, LLC			
ADDRESS (STREET) c/o Marc Marquis; Peterson & Marquis 1227 First Street	(CITY) Wenatchee	(STATE) WA	(ZIP CODE) 98801

Changes Proposed: ☐ Change purpose ☐ Add purpose ☐ Add irrigated acres ☐ Change point of diversion/withdrawal
☐ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

SEPA
The board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 2.2cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 418.5af	TYPE OF USE, PERIOD OF USE 100 acres Irrigation April 1 st to Oct. 31 st and frost control as needed				
SOURCE Columbia River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: 1750' E. & 900' N of W1/4 corner sec. 8 PARCEL NO. 26220820002	1/4	1/4 Gov Lot 4	SECTION 8	TOWNSHIP N. 26	RANGE 22E	WRIA 44	COUNTY. Douglas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED The southeast quarter of Section 7 and the north half of the NE1/4 of Section 18, all lying in T26N, R22, EWM, Douglas County Washington							
PARCEL NO. 26220740000 26221810002	1/4 N1/2	1/4 SE NE	SECTION 7 18	TOWNSHIP N. 26N	RANGE, 22E		

Proposed Use

MAXIMUM CUB FT/ SECOND 2.2cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 418.5af	TYPE OF USE, PERIOD OF USE 100 acres irrigation April 1 st to Oct. 31 st , and frost control as needed				
SOURCE Columbia River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: 1750' E. & 900' N of W1/4 corner sec. 8 PARCEL NO. 26220820002	1/4	1/4 Gov. Lot 4	SECTION 8	TOWNSHIP N. 26	RANGE 22E	WRIA 44	COUNTY. Douglas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED The southeast quarter of Section 7 and the north half of the NE1/4 of Section 18, all lying in T26N, R22, EWM, Douglas County Washington							
PARCEL NO. 26220740000 26221810002	1/4 N1/2	1/4 SE NE	SECTION 7 18	TOWNSHIP N. 26N	RANGE, 22E		

Board’s Decision on the Application

MAXIMUM CUB FT/ SECOND 2.2cfs	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 418.5af	TYPE OF USE, PERIOD OF USE 100 acres irrigation April 1 st to Oct. 31 st , frost control as needed				
SOURCE Columbia River			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: 1750' E. & 900' N of W1/4 corner sec. 8 PARCEL NO. 26220820002	¼	¼ Gov Lot 4	SECTION 8	TOWNSHIP N. 26	RANGE 22E	WRIA 44	COUNTY. Douglas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD							
The southeast quarter of Section 7 and the north half of the NE1/4 of Section 18, all lying in T26N, R22, EWM, Douglas County Washington							
PARCEL NO. 26220740000 26221810002	¼ N1/2	¼ SE NE	SECTION 7 18	TOWNSHIP N. 26N		RANGE, 22E	

DESCRIPTION OF PROPOSED WORKS

Applicant will use existing POD and distribution system to provide for irrigation within the above described place of use.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: N/A	COMPLETE PROJECT BY THIS DATE: Project Completed	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: Change Completed
------------------------------------	---	---

REPORT

BACKGROUND

(i) A description of the water right proposed for transfer, including the board-assigned water right change application number, and the board's tentative determination as to the validity and quantification of the right, as well as the historical water use information that was considered by the board;

Water Works Property filed an application for changes to the subject water right on 4/11/2011 and the application was accepted by the Board on that filing date and assigned the unique identifier Doug 11-02. Public notice of the application was given in the Empire Press on 06/09/11 and 06/16/11. The 30 day comment and protest period ended on July 15, 2011. See attached Notice of Application for Changes to a Water Right together with its affidavit of publication. In addition to publication this notice was transmitted to the Washington State Department of Fish and Wildlife and Tribes.

Table 1: Attributes of the Water Right as Currently Documented

Name on certificate, claim, permit: William D. and Joy Cox
Water right document number: S4-29943C
As modified by certificate of change number: N/A
Priority date, first use: 2/23/1989
Water quantities: Qi:2.2cfs Qa: 418.5af
Source: Columbia River
Point of diversion/withdrawal: Gov. Lot 4 Sec. 8, T26N, R22E Douglas County, WA
Purpose of use: Irrigation, stock, frost protection
Period of use: April 1 to October 31 Irrigation Continuous Stock Water As needed Frost Protection
Place of use: SE1/4 Section 7, T26N, R22EWM Douglas County, WA
Existing provisions:

That portion of this authorization relating to irrigation is classified as a FAMILY FARM PERMIT in accordance with Chapter 90.66 RCW (Initiative Measure No. 59). This means the land being irrigated under this authorization shall comply with the following definition: Family Farm - a geographic area including not more than 2,000 acres of irrigated agricultural lands, whether contiguous or noncontiguous, the controlling interest in which is held by a person having a controlling interest in no more than 2,000 acres of irrigated agricultural lands in the State of Washington which are irrigated under water rights acquired after December 8, 1977. Furthermore, the land being irrigated under this authorization must continue to conform to the definition of a family farm.

This authorization is subject to Washington Department of Fisheries juvenile salmon screening criteria (pursuant to RCW 75.20.040) and/or Washington Department of Wildlife gamefish screening criteria.

This authorization is subject to the following minimum flow provisions as specified in WAC 173-563-040 and WAC 173-563-050 and the following table. It is subject to regulation by the Department of Ecology for protection of instream resources whenever the March 1 forecast of April-September runoff at The Dalles is 60 MAF or less, and when gaged flow are predicted by the BPA 30-Day Power Operation Plan to violate the following minimum flow provisions at:

Primary Control Station: Rocky Reach*
River Mile: 473.7

Minimum Average Weekly Flows
Columbia River Projects
(1,000 cubic feet/second)

	Rocky Reach*	Priest Rapids
Jan	30	70
Feb	30	70
Mar	30	70
Apr. 1-15	50	70
16-25	60	70
26-30	100	110
May	115	130
June 1-15	110	110
16-30	80	80
Jul 1-15	80	80
16-31	100	110
Aug	90	95
Sept	40	40
Oct 1-15	35	40
16-31	35	70
Nov	30	70
Dec	30	70

* For the reach from Grand Coulee through Wanapum, minimum average weekly flows shall be as shown above, or as necessary to maintain minimum flows (subject to low runoff and adjustment) at Priest Rapids, whichever is higher. As provided in WAC 173-563-050(1), the minimum average weekly flows set forth in this subsection are subject to a reduction of up to 25 percent during low flow years, except that in no case shall the outflow from Priest Rapids Dam be less than 36,000 cfs.

Use of water under this authorization shall be contingent upon the water right holder's utilization of up-to-date water conservation practices and maintenance of efficient water delivery systems consistent with established regulation requirements and facility capabilities.

Use of water under this authorization can be expected to be curtailed at least once in every 20 years.

The water sources and/or water transmission facilities may not be located entirely upon the land owned by the applicant. Therefore, the applicant is advised that issuance of a permit by this department for appropriation of the waters in question does not convey a right of access to, or other right to use, land which the applicant does not legally possess.

Previous transfers associated with this water right: N/A

Notice as Published:

TAKE NOTICE: That on April 11, 2011, Water Works Properties, LLC, Wenatchee WA, filed application number DOUG 11-02 with the Douglas County Water Conservancy Board to change the southeast quarter of Section 7 and the North half of the NE1/4 of Section 18, all lying in TW 26 N, R 22, E.W.M. Douglas County, Washington under Certificate of Water Right S4-29943C.

That said right, under priority date of February 23, 1989, authorizes the withdrawal or diversion of 418.5 acre-ft per year from the Columbia River located within Section 8, TWP. 26, RGE 22 E. That said right authorizes water to be used for irrigation, frost control and stock water from April 1 to October 1 within the southeast quarter of Section 7, TS 26N, R 22 E.W.M., Douglas County, Washington.

That the applicant proposes to include in the southeast quarter of Section 7, the North half of the NE1/4 of Section 18, all lying in TW 26N, R 22, E.W.M., Douglas County, Washington, for the purposes of irrigation, frost control and stock water with the diversion of 418.5 acre-ft per yer.

Signatures:

William & Joy Cox, operating as Six Generation L.P. originally held title to the subject property and associated water right. Water Work LLC subsequently acquired title to the subject property and appurtenant water right via deed in October 2010. As such, John McQuaig, as authorized representative of Water Works LLC, has provided all required signatures as holder of the right, owner of the current place of use, and owner of the proposed place of use which remain unchanged (see Appendix item #4).

Tentative Determination:

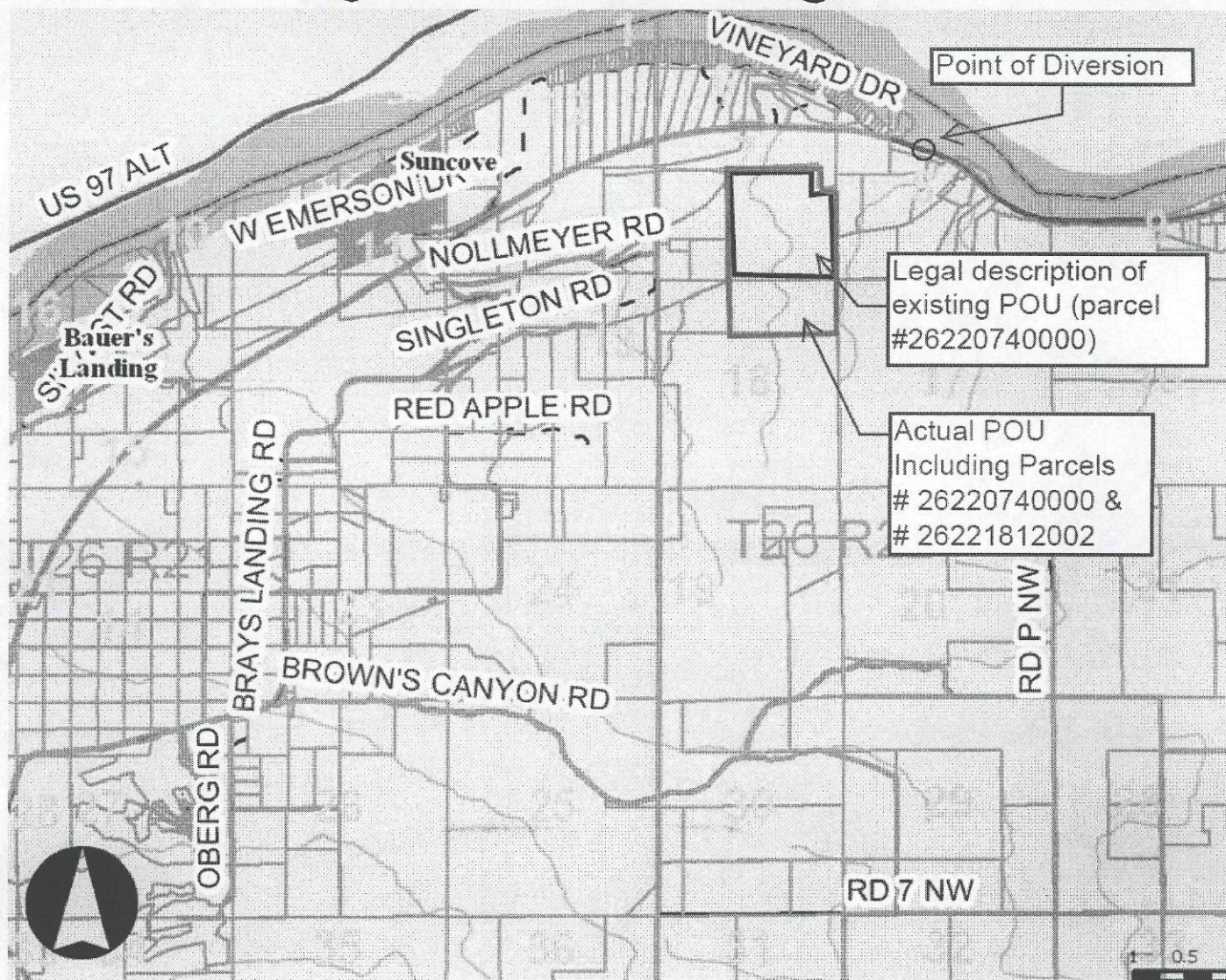
The source of water, location of diversion, place of use, and extent of beneficial use are as tentatively described on the front page of this report. Hearings were held in Douglas County by the Douglas County Water Conservancy Board which tentatively determined the extent and validity of the right as referenced above following investigation into the historical water use as described below. A full analysis of the Board's tentative determination is provided in the Investigation Section.

SEPA:

The subject right authorizes water quantities less than 50cfs for irrigation purposes and is therefore exempt as per RCW 43.21C.035.

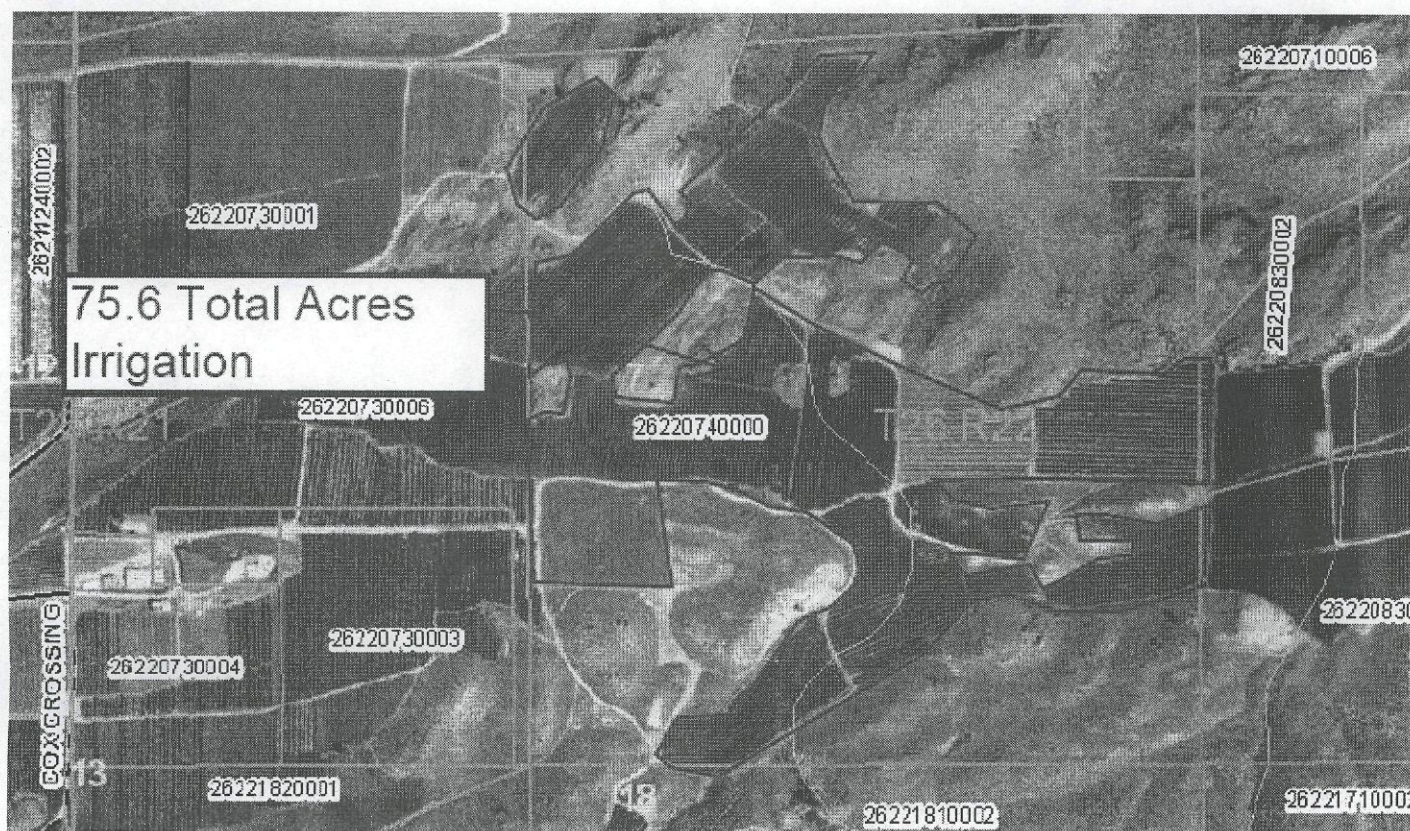
History:

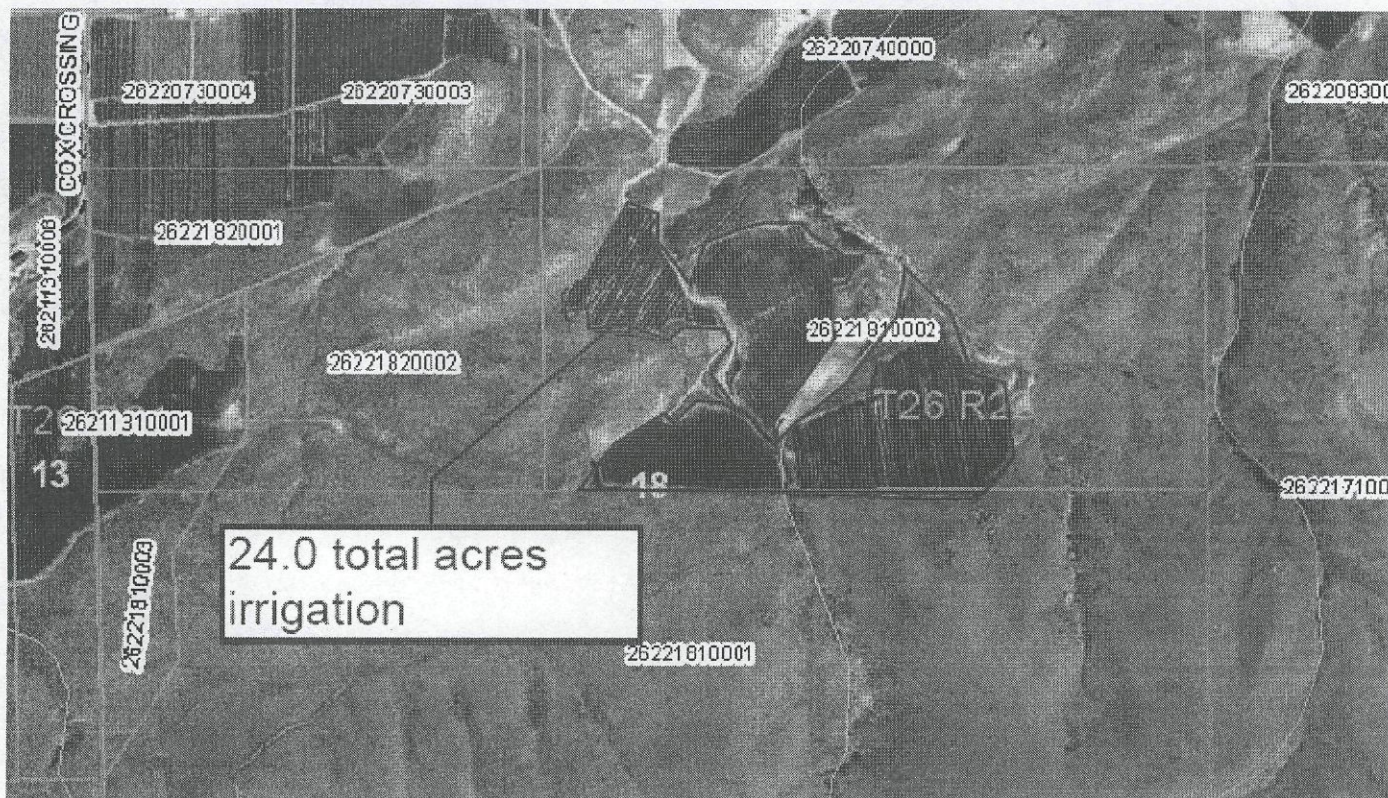
In 1979, Dan Cox, operating as Sixth Generation, L.P., acquired the described property which serves as the place of use for the subject right and planted the orchards which are present on the property today. Following submission of an application and proof of appropriation, Mr. Cox received a permit for the subject right. The application and permit referenced a place of use including 100 acres of irrigation. In the process of applying for the referenced permit, Mr. Cox failed to include the complete legal description of the property which serves as the full place of use for the subject water right. Regardless, since acquisition Mr. Cox continuously utilized the subject right for the purposes of irrigation and frost protection on an area equal to approximately 100 acres located within Douglas County parcels #26220740000 and #262218120002. In 2010, the applicant, via deed, acquired title to the subject property including appurtenant water rights (see Appendix item #4) and retained the services of Mr. Cox as Orchard Manager. As such, Mr. Cox has extensive firsthand knowledge regarding current and historic water use as described in an attached declaration.



Proposed Use:

The applicant submits the application for the limited purpose of correcting the place of use as identified by the permit. The actual area of use is as depicted in the two aerial images provided below:





COMMENT AND PROTESTS

There were NO protests received during the 30 day protest period. In addition, NO oral and written comments were received at an open public meeting of the board or other means as designated by the board.

INVESTIGATION:

Tentative Determination:

Following a site visit conducted on 11/9/2012, review of historic documents, and interviews with the applicant, the Board tentatively concluded the applicant has consistently utilized the subject right to supply irrigation to 100 acres of cherries with cover utilizing over-tree applicators. Washington Irrigator's Guide Appendix A for Wenatchee Station indicates a Crop Irrigation Requirement of 36.46 inches. Assuming 75% efficiency for existing applicators results in a volume of 410 af with the balance of the subject right available for frost protection as needed @ .08 afy/ac. As such, the Board determined the extent and validity of the right is equal to 2.2 cfs and 418.5 af of water.

Annual Consumptive Quantities:

An ACQ analysis is not required as the total irrigated acreage will remain unchanged and no additional uses are proposed.

Public Interest:

The subject right authorizes a surface water diversion. A public interest analysis is not applicable for changes to surface water diversions.

Geologic, Hydrogeologic, or other scientific investigations (if applicable)

No hydrogeologic studies or other investigations are applicable for the change application as proposed.

CONCLUSIONS

The water right proposed for change exists to the extent set forth above on page 1.

The water right authorized for change is in a valid exercisable status with regard to the amounts proposed for change, the statutory forfeiture provisions of Chapter 90.14 RCW are not met relative to the amounts requested for change. At no time was there intent by the water right holder(s) to abandon the rights authorized for change.

No hydraulic analysis was required. The proposed changes will withdraw water from the same body of water and will not impair any existing water rights.

There were no comments or protests.

The proposed changes can be made without injury or detriment to existing water rights.

A public interest analysis is not applicable as this transfer is exclusively subject to RCW 90.03.380.

Approval of this change will not enlarge the right.

DECISION

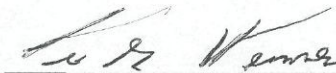
Name on Water Right:	Water Works Properties, LLC
Priority Date:	2/23/1989
Instantaneous Quantity:	2.2cfs
Annual Quantity:	418.5af
Source:	Columbia river
Point of Diversion:	Gov. Lot 4, Sec. 8, T26N, R22EWM Douglas County, WA
Purpose of Use: (and number of acres irrigated)	100 acres irrigation Frost Protection
Period of Use:	Irrigation April 1 st to October 31 st Frost Protection as needed
Place of Use:	The southeast quarter of Section 7 and the north half of the NE1/4 of Section 18, all lying in T26N, R22, EWM, Douglas County Washington

PROVISIONS

1. Same as currently provided in the certificate

The undersigned board commissioner certifies that he/she understands the board is responsible “to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination.” [WAC 173-153-130(5)] The undersigned therefore, certifies that he/she, having reviewed the report of examination, knows and understands the content of this report and concurs with the report’s conclusions.

Signed at Waterville, Washington.



Lee Hemmer, Chair
Douglas County Water Conservancy Board

11-12-12

Date

Appendix:

1. Application with attachments
2. Copy of the Existing Water Right Document
3. Cox Declaration
4. Letter from Ogden, Murphy, Wallace re Property Transfer with Water Rights
5. Notice of Application with declaration of publication
6. Transmittal of Notice of Application to Department of Fish and Wildlife